IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1469 of 2004
in
SPECIAL CIVIL APPLICATION No 10097 of 2002
with
CIVIL APPLICATION No 5660 of 203

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI Sd/-
and
HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 YES; 2 to 5 No

VIMAL SULZCON PVT. LTD.

Versus

RELIANCE INDUSTRIES LTD.

Appearance:

1. LETTERS PATENT APPEAL No. 1469 of 2004

MR DEVANG NANAVATI Advocate for Appellant
MR KS NANAVATI Sr.Advocate for NANAVATI ASSOCIATES for Respondent No. 1, 2.
MR JITENDRA MALKAN Advocate for Respondent No. 4.
MS PJ DAVAWALA for Respondent No. 3, 5, 6.

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI
and
HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 14/09/2004

ORAL JUDGEMENT

(Per: HON'BLE MR.JUSTICE R.K.ABICHANDANI for the Court)

1. ADMIT. Service of notice is waived by learned senior counsel Mr.K.S.Nanavati for the respondents Nos.1 and 2, learned counsel Ms.Davawala for the respondents Nos.3, 5, 6 and Mr. Malkan for the respondent No.4.

2. This appeal is directed against the judgment and order dated 30.10.2002 made by the learned Single judge in Special Civil Application No.10097 of 2002 by which the respondent authorities were directed to comply with the provisions of Section 20 of the Companies Act, 1956 as well as the circular dated 25.11.1965 and to take appropriate steps and deregister the companies which were using the trade mark identical with or too nearly resembling the trade mark of the respondent No.1 (original petitioner) company. The authorities were further directed that in future they shall not register a company having trade mark/word/logo "VIMAL" without giving notice to the petitioner company.

3. It appears from the Annexure-A to the petition that the present appellant was one of the four companies in whose name the word "VIMAL" was used and in respect of which the reliefs were sought in the petition. There is no dispute about the fact that the present appellant was not impleaded as a party in that petition. Since the present appellant was affected, leave to appeal was sought for challenging the said judgment and order of the learned Single Judge and it is on that basis that the present L.P.A. was filed.

4. The appellant was vitally concerned with the outcome of the petition. Moreover, Section 20, on the basis of which the direction was given by the learned Single Judge, came into force from 15.9.2003 which aspect has been overlooked in the impugned decision. Having regard to the nature of controversy that is now arising in this appeal, it is agreed between all the learned counsel that the order of the learned Single Judge may be set aside and the matter be remanded to the learned Single Judge for being decided afresh in accordance with law after hearing the appellant who will be impleaded as one of the party respondents. We accordingly set aside the impugned decision and remit the matter for fresh decision before the learned Single Judge after impleading the appellant as a party respondent and hearing all the

parties, including the appellant in the matter afresh. It will be open for the appellant to take any objection against maintainability of the petition as stated by the learned counsel for the appellant. It will also be open for the respondent Company to implead the other three companies, in whose names "Vimal" occurs, as parties. The appeal is accordingly allowed with no order as to costs.

5. No order in the Civil Application in view of the order made in this appeal and it accordingly stands disposed of. Sd/-

(R.K.Abichandani, J.)

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)